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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,543	09/12/2003	David C. Fischer		6417

7590 09/09/2004
Marvin N. Gordon
277 West End Avenue
New York, NY 10023

EXAMINER

COURSON, TANIA C

ART UNIT	PAPER NUMBER
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2859

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

my

Office Action Summary	Application No.		Applicant(s)	
	10/660,543		FISCHER, DAVID C.	
	Examiner		Art Unit	
	Tania C. Courson		2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 6-7 and 14-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Independent claim 1 recites on line 7, “angular measurement data” which signifies “an arcuate path” thus referring only to Figure 1. A “rectilinear path”, as is associated with claims 6-7 and 14-15, would be referred to Figure 2. Thus “angular measurement data” would not allow the claim to be read unto claims 6-7 and 14-15, nor Figure 2.

With respect to claims 6-7 and 14-15: the prior art of record has not been applied to claims 6-7 and 14-15 due to the contradicting description as stated above in paragraph 2.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5, 8-13 and 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Jacobsen et al. (US5,311,666).

Jacobsen et al. discloses in Figures 1-9, a measuring apparatus and method comprising:

With respect to claims 1-5, 8-13 and 16:

- a) a member movable along a path corresponding to the position of the object (Fig. 1, shaft 4), a plurality of spaced electrical contacts insulated from one another and positioned along said path (Fig. 2, tracks 82, 84), means operatively connected to said plurality of contacts for storing a corresponding plurality of angular measurement data at a corresponding plurality of memory locations (Fig. 7, shift register 334), said measurement data respectively associated with said plurality of contacts along said path (Fig. 7), and output means operatively connected to said data storing means (Fig. 7, utilization unit 352) said movable member being effective when in engagement with one of said contacts to cause the data stored in the one of said memory locations associated with said one of said contacts to be applied to said output means (Fig. 7);
- b) in which said output means is a display device (Fig. 7, utilization unit 352);
- c) in which said output means is a CPU (Fig. 7, utilization unit 352);
- d) in which said contacts are arranged in an arcuate path (Fig. 7);
- e) in which said movable member is connected at one of its ends to a voltage source (Fig. 9) and its other free end is movable along said arcuate path to make electrical contact with one of said contacts (Fig. 1);
- f) in which said data-storing means is a ROM (Fig. 7, shift register 334).

With respect to method claim 17:

- a) arranging a plurality of fixed, spaced and insulated electrical contacts along a path (Fig. 2, tracks 82, 84), moving a member (Fig. 1, shaft) along said path by an amount representative of the relative movement of the object thereby causing said movable member to make electrical contact with one of said contacts (Fig. 1), storing respectively a corresponding plurality of position data in a plurality of data-storing locations in a memory (Fig. 7, shift register 334), each of said data-storing locations being respectively associated with the position of one of said contacts (Fig. 7), and causing the measurement data from the one of said memory location associated with the one of said contacts then engaged by said movable member to be applied to an output device (Fig. 7, utilization unit 352).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art cited on PTO-892 and not mentioned above disclose a measurement device:

Ito et al. (US 2003/0177649 A1)

Jacobsen et al. (US 6,170,162 B1)

Edwards et al. (US 5,163,228)

Jacobsen et al. (US 4,964,306)

Art Unit: 2859

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania C. Courson whose telephone number is (571) 272-2239.

The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez, can be reached on (571) 272-2245.

The fax number for this Organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DIEGO F.F. GUTIERREZ
SUPERVISORY PATENT EXAMINER
GROUP ART UNIT 2859

TCC
September 3, 2004